TABLE OF CONTENTS

SH 2411259

E A Google Earth Image used during Witness Deputy Escobedo's interview

MISCELLANEOUS DOCUMENTS

(2) Copies of Receipts for Certified Witness Contact Letters

(2) Deputy Ochoa's Doctor and Attorney Emails

PM Shift In-service for Century Station on September 1, 2016

Training and Range Qualification Records for Deputy Ochoa

Foot Pursuit Pace Calculator Results

(5) Administrative Rights Force / Shooting Investigation Forms



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

June 28, 2018

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755



Re: Officer Involved Shooting of Joshua Quintero
J.S.I.D. File #16-0444
L.A.S.D File #016-13707-2174-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 1, 2016, fatal shooting of Joshua Quintero by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Richard Ochoa, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: http://da.co.la.ca.us

MEMORANDUM

TO:

CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Joshua Quintero
J.S.I.D. File #16-0444
L.A.S.D. File #016-13707-2174-013

DATE: June 28, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 1, 2016, fatal shooting of Joshua Quintero by Los Angeles County Sheriff's Department (LASD) Deputy Richard Ochoa. It is our conclusion that Deputy Ochoa acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting on September 1, 2016, at approximately 7:22 p.m. The District Attorney Response Team (DART) responded and was given a briefing and a walk-through of the scene.

The following analysis is based on various reports submitted by the Los Angeles County Sheriff's Department (LASD) Detective Division, Homicide Bureau.

FACTUAL ANALYSIS

On September 1, 2016, between approximately 5:42 p.m. and 5:45 p.m., dispatchers from the LASD received reports of a possible gunshot victim in the area of 83rd Street and Beach Street in the City of Los Angeles.[1] Deputies Jason Puga and Daniel Velasco were dispatched to 83rd Street and Beach Street to locate the potential victim and conduct an investigation.

Deputies Puga and Velasco contacted a man (later identified as [redacted]) as he walked on the east sidewalk of Beach Street immediately south of the intersection of 84th Street and Beach Street. [redacted] clothing was bloody and he appeared to have been shot in the groin. Puga and

[1] Witness [redacted] was inside his home located at the corner of 83rd Street and Beach Street, when he heard a man outside, later identified as [redacted] yelling incoherently. [redacted] exited his home and saw [redacted] who appeared to have a gunshot wound to his torso. [redacted] told [redacted] he had been shot, walked west on 83rd Street to Beach Street and then turned south. [redacted] called 9-1-1. As is described below, other witnesses also called 9-1-1.

Velasco convinced [redacted] to sit down for his own safety. [redacted] was uncooperative and would not provide Puga or Velasco any information regarding the source of his injuries.[2]

Puga saw a woman at the intersection of Beach Street and 83rd Street flagging them down and drove to her location while Velasco remained behind with [redacted][3]

Gang and Crime Suppression Unit Deputies Richard Ochoa and Blake Orlandos also responded. As Orlandos and Ochoa drove southbound on Beach Street from 83rd Street, Orlandos observed Velasco speaking to [redacted] near the intersection of 84th Street and Beach Street.

Orlandos and Ochoa began to canvas the immediate area for potential witnesses who could provide information regarding [redacted] injuries. The deputies continued driving southbound to the intersection of 84th Street and Beach Street where they observed three men, later identified as Joshua Quintero, [redacted] and [redacted] walking westbound on 84th Street towards them.

Ochoa exited his vehicle and approached the group on foot. From their attire and tattoos, it appeared that the men were possibly gang members. Ochoa asked whether they had heard any gunshots or if they had seen anything. All three stated they had not. Ochoa noticed that as he stood speaking to the group of three men, Quintero began walking away from him, [redacted] and [redacted] When Ochoa specifically asked Quintero again if he had seen anything, Quintero suddenly began running northbound on Beach Street.

Based on Quintero's proximity to the crime scene and his evasive conduct, Ochoa believed that Quintero was possibly involved in shooting [redacted] Ochoa unholstered his service weapon, chased after Quintero and yelled, "Stop!" as Quintero continued to run away.

Orlandos called out to Puga, who was standing on the corner of 83rd Street and Beach Street, to alert him that Quintero and Ochoa were running in his direction.

As Quintero ran northwest diagonally across Beach Street, Puga joined the chase. Orlandos, who believed that [redacted] and [redacted] were possibly involved in the assault on [redacted] detained both men as part of his ongoing investigation.

Ochoa and Puga followed Quintero as he ran north on Beach Street and then towards a dead end east/west alley located on the west side of Beach Street approximately a half block south of 83rd Street. Ochoa followed closest to Quintero. [redacted] and his [redacted] who had stepped

---

[2] [redacted] eventually told LASD investigators that he had been shot during an argument with three male Hispanics at the intersection of 83rd Street and Beach Street. However, video obtained by LASD investigators from a surveillance camera at [redacted] shows [redacted] exiting a home at [redacted] with what appears to be blood on his shirt. [redacted] is seen slightly limping as he touches his waist and leg and then stops in front of the residence; he then leans up against a fence in the front yard of the house next door. Smalley remained in the front of the location and was observed on video speaking with a man who exited [redacted] and then re-entered the residence. [redacted] can also be seen grabbing his groin area. [redacted] eventually told LASD investigators that he was "very high" on PCP (Phencyclidine) and had probably shot himself playing around with a handgun, but had no recollection of the event because he was so intoxicated. Detectives later recovered a loaded handgun and a spent bullet and casing from [redacted] the location [redacted] exited. [redacted] DNA was found on the fired bullet. No evidence was found linking Joshua Quintero to [redacted] shooting.

[3] The reports reviewed do not identify this witness.

back outside his house on 83rd Street and Beach Street after calling 9-1-1, observed Quintero as he ran from Ochoa towards the alley and saw that Quintero was carrying a dark colored handgun in his right hand.[4]

As Quintero ran into the alley, Puga and Ochoa could see him reaching for his waistband. Based on Quintero's conduct and his (Ochoa's) training and experience, Ochoa believed that Quintero was carrying a handgun in his waistband and considered him a threat to his safety.[5] Ochoa warned Quintero not to reach for his waistband or he would shoot him.

Quintero continued running to the west end of the alley where he turned south into a fenced parking area/lot outside of Puga and Ochoa's range of vision.[6] Ochoa followed Quintero into the parking area/lot but was not aware that it was a dead end. Quintero, who did not look back or speak to Ochoa, reached into his waistband and pulled out a revolver. Fearing that Quintero would turn and shoot him, Ochoa fired at Quintero as Quintero lifted his arm and forcefully flung the revolver into the air. Quintero was struck by gunfire on the back of his head and on the heel of his right foot; he collapsed and fell forward. Quintero's revolver landed and shattered the rear window of a car parked on an adjoining property located at [redacted][7]

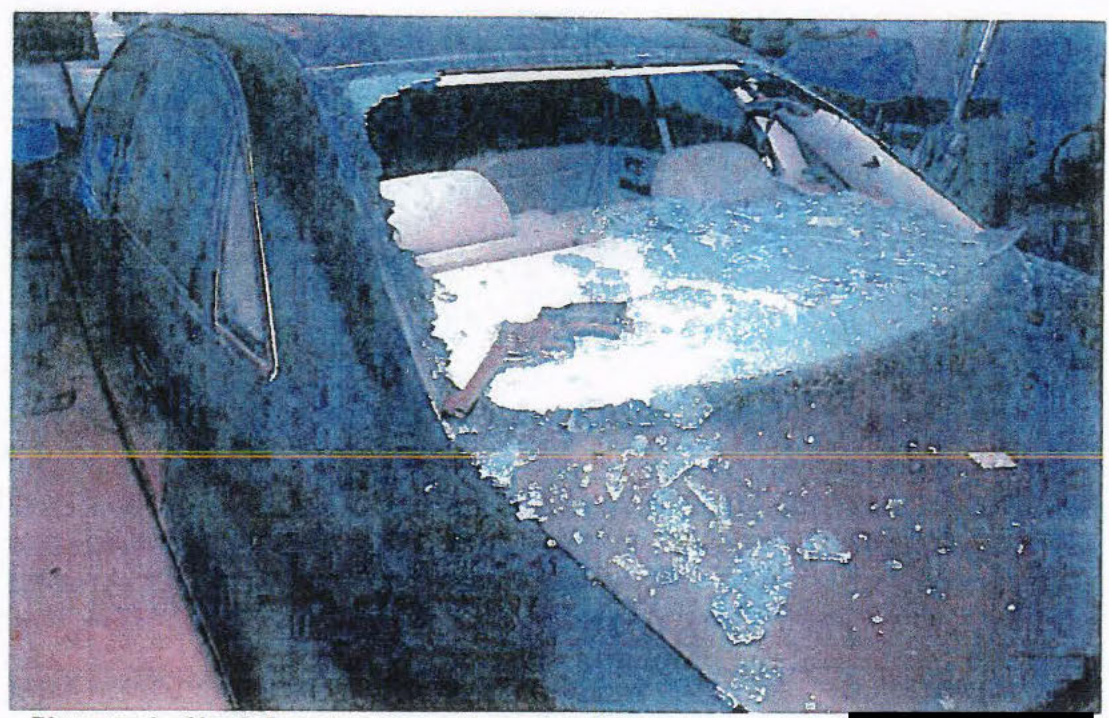
//

[4] The alleyway is situated southwest of [redacted] home, immediately across the street.

[5] Puga also observed Quintero holding his waistband as he ran. Puga believed that Quintero was responsible for shooting [redacted]

[6] The west end of the alleyway dead ends into a parking area/lot which juts out to the south and abuts the back fence of the parking lot at [redacted] A gate in the alley, which was closed at the time of the deputy involved shooting, allows access to the parking lot located at [redacted] The northern portion of the alleyway is bordered by the fences/walls of homes on 83rd Street. The south end of the alley is bordered by the rear yard fences/walls of homes on 84th Street, except for the portion which comprises the parking lot which abuts [redacted]

[7] Puga, who was behind both Quintero and Ochoa, saw the gun fly into the air and land at [redacted] Puga observed the gun fly into the air as he almost simultaneously heard Ochoa fire his service weapon. A portion of the deputy involved shooting was caught by video surveillance cameras installed at [redacted] However, due to obstacles in the frame (a truck, fencing), the distance of the video surveillance camera from the location of the deputy involved shooting, and very poor resolution, the video is of limited evidentiary value. The video depicts two very blurry figures, one running in front of the other for a brief second before the figure in the foreground (Quintero) thrusts his arms upwards and almost simultaneously falls forward. Facial features, hands, details of clothing, etc. are all indiscernible due to the poor resolution of the recording.



Photograph of loaded revolver thrown by Joshua Quintero recovered at [redacted]

Puga radioed for medical assistance. Paramedics responded to the location and attempted life saving measures on Quintero, who was unconscious and unresponsive. Paramedics transported Quintero to St. Francis Medical Center for medical treatment for gunshot wounds; he was pronounced dead at approximately 6:31 p.m. by Dr. M. Anderson.[8]

[redacted] was also transferred to St. Francis Medical Center where he was treated for a gunshot wound to the groin area and survived.

The loaded silver revolver thrown by Quintero was later recovered by LASD personnel from [redacted][9] DNA analysis of swabs taken from the gun and cartridges confirmed the presence of DNA consistent with DNA samples taken from Quintero.

LASD investigators were successful in locating several other civilian witnesses besides [redacted] and his [redacted] who observed the events leading to Quintero's shooting.

[redacted] was standing in the front yard of her home on [redacted] when she observed [redacted] walking in the middle of Beach Street with his pants and boxers around his knees. [redacted] was screaming and yelling and [redacted] observed blood on his legs and stomach. As [redacted] watched deputies contact [redacted] and a female witness, she noticed a man (Quintero)

[8] On September 5, 2016, Los Angeles County Coroner's Office Deputy Medical Examiner Scott Luzi, M.D., conducted an autopsy of Quintero's body and determined that Quintero suffered two gunshot wounds: a fatal gunshot wound to the back of the head and graze wound on his right foot. Blood samples taken from Quintero's body tested positive for the presence of marijuana.

[9] The firearm recovered from [redacted] matched the description of the firearm carried by Quintero (a long barreled, silver revolver) given to LASD investigators by witness [redacted] who was aware that Quintero was armed with a firearm.

running north on Beach Street who was being pursued by a deputy (Ochoa). The deputy (Puga) speaking to the female also joined the chase. Deputies Puga and Ochoa ordered Quintero to stop running. [redacted] saw that Quintero was holding the front waistband area of his pants. After Quintero ran into an alleyway, she heard approximately three gunshots.

[redacted] was stopped in her vehicle near the entrance to the east/west alley on Beach Street between 83rd and 84th Streets. [redacted] was waiting for [redacted] who was walking on the sidewalk close to the front of her vehicle, to clear her path so she could drive her car into the alley. [redacted] bumped into her vehicle and [redacted] noticed that he was bleeding from the waist area. [redacted] asked [redacted] to call 9-1-1 and walked away as she called 9-1-1. [redacted] pulled into the alley and parked her car.

A short time later, she saw a deputy (Ochoa) chasing a man (Quintero) north up Beach Street towards the alley where she was stopped. A second deputy (Puga) was also chasing Quintero. [redacted] heard one of the deputies twice order Quintero to stop running and tell him that he did not want to shoot him; the deputy also ordered Quintero to put his hands up.[10] Quintero did not comply and kept running towards an east/west alley on the opposite side of Beach Street.

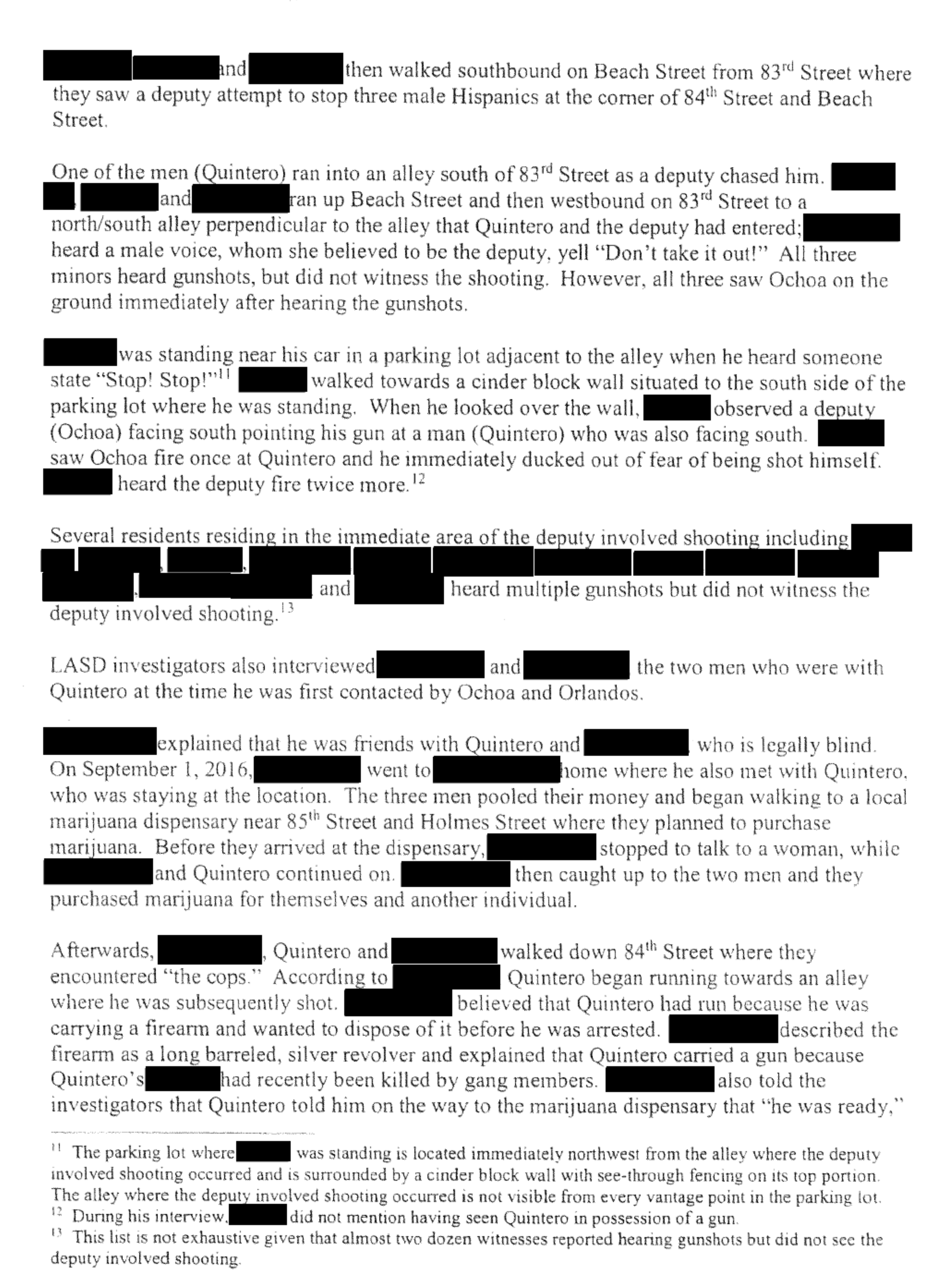
[redacted] saw Quintero reaching down for his waistband or pockets as he was running into the alley across the street. As he did so, the deputy (Ochoa) yelled "Don't do it!" twice and also told Quintero that he did not want to shoot him. Quintero, however, did not comply with Ochoa's orders and continued running out of sight, to the end of the alley. [redacted] then saw Ochoa fire his gun three times while he was at the end of the alley; she could not see what Ochoa was shooting at.

[redacted] was in the dining room of her home located on [redacted] when she saw a man [redacted] walking south on Beach Street on the east sidewalk; [redacted] was bleeding from his hip and near his lower rib cage. Two deputies approached [redacted] and spoke to him; one of the two deputies then got into his patrol vehicle and drove in reverse northbound up Beach Street. [redacted] then saw three Hispanic men whom she recognized from the neighborhood, one of whom was blind, walking westbound on 84th Street. One of the deputies stopped to speak to the three men. [redacted] observed one of the three men (Quintero) run north on Beach Street and west into an east/west alley as he was being pursued by a deputy (Ochoa). [redacted] then heard approximately five gunshots.

In addition, investigators located three juvenile witnesses [redacted] and [redacted] who also observed the events leading to Quintero's shooting. Deputy Adrian De Casas interviewed the juveniles and learned the following. On the evening of the shooting, [redacted] was walking home from [redacted] when he saw a male at the corner of 83rd and Beach Street who told him he had been shot and asked someone to call the police. [redacted] returned to school where he met with [redacted] and [redacted] and asked the school staff to call 9-1-1.

---

[10] [redacted] did not specify whether Puga or Ochoa made these statements, but from the evidence reviewed it appears that these statements were made by Ochoa.



[redacted] and [redacted] then walked southbound on Beach Street from 83rd Street where they saw a deputy attempt to stop three male Hispanics at the corner of 84th Street and Beach Street.

One of the men (Quintero) ran into an alley south of 83rd Street as a deputy chased him. [redacted], [redacted] and [redacted] ran up Beach Street and then westbound on 83rd Street to a north/south alley perpendicular to the alley that Quintero and the deputy had entered; [redacted] heard a male voice, whom she believed to be the deputy, yell "Don't take it out!" All three minors heard gunshots, but did not witness the shooting. However, all three saw Ochoa on the ground immediately after hearing the gunshots.

[redacted] was standing near his car in a parking lot adjacent to the alley when he heard someone state "Stop! Stop!"[11] [redacted] walked towards a cinder block wall situated to the south side of the parking lot where he was standing. When he looked over the wall, [redacted] observed a deputy (Ochoa) facing south pointing his gun at a man (Quintero) who was also facing south. [redacted] saw Ochoa fire once at Quintero and he immediately ducked out of fear of being shot himself. [redacted] heard the deputy fire twice more.[12]

Several residents residing in the immediate area of the deputy involved shooting including [redacted], [redacted] and [redacted] heard multiple gunshots but did not witness the deputy involved shooting.[13]

LASD investigators also interviewed [redacted] and [redacted] the two men who were with Quintero at the time he was first contacted by Ochoa and Orlandos.

[redacted] explained that he was friends with Quintero and [redacted] who is legally blind. On September 1, 2016, [redacted] went to [redacted] home where he also met with Quintero, who was staying at the location. The three men pooled their money and began walking to a local marijuana dispensary near 85th Street and Holmes Street where they planned to purchase marijuana. Before they arrived at the dispensary, [redacted] stopped to talk to a woman, while [redacted] and Quintero continued on. [redacted] then caught up to the two men and they purchased marijuana for themselves and another individual.

Afterwards, [redacted], Quintero and [redacted] walked down 84th Street where they encountered "the cops." According to [redacted] Quintero began running towards an alley where he was subsequently shot. [redacted] believed that Quintero had run because he was carrying a firearm and wanted to dispose of it before he was arrested. [redacted] described the firearm as a long barreled, silver revolver and explained that Quintero carried a gun because Quintero's [redacted] had recently been killed by gang members. [redacted] also told the investigators that Quintero told him on the way to the marijuana dispensary that "he was ready,"

[11] The parking lot where [redacted] was standing is located immediately northwest from the alley where the deputy involved shooting occurred and is surrounded by a cinder block wall with see-through fencing on its top portion. The alley where the deputy involved shooting occurred is not visible from every vantage point in the parking lot.

[12] During his interview, [redacted] did not mention having seen Quintero in possession of a gun.

[13] This list is not exhaustive given that almost two dozen witnesses reported hearing gunshots but did not see the deputy involved shooting.

i.e. that he was carrying his revolver. Several months prior, Quintero had actually showed him a picture of the gun and had asked him where he could find ammunition. [redacted] was emphatic that neither he, Quintero or [redacted] shot [redacted]

[redacted] told investigators that earlier in the day, he, Quintero and [redacted] had gone to a local marijuana dispensary to purchase marijuana for themselves and an acquaintance of Quintero's.[14] As they were walking back from the dispensary, [redacted] heard someone ask them if they heard any gunshots or if they had seen anyone running. [redacted] suddenly stated, "That's the cops!" All three men told the police that they had not seen anything. [redacted] then heard someone running and a voice yelling, "What are you doing? What are you doing? Stop!" After hearing someone yell, "What did I do?" [redacted] heard gunshots and someone yelling, "What the fuck!" as [redacted] yelled, "Lets go!" According to [redacted] Quintero was a former gang member, but [redacted] did not know him to carry a gun. [redacted] stated that he would be surprised if Quintero carried a gun, but shortly thereafter [redacted] reversed himself and stated that because "everybody has their past" he would not be surprised if Quintero was armed.

LEGAL ANALYSIS

The use of deadly force in self-defense or in the defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. *CALCRIM No. 505.*

The test for whether an officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102. Reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Graham v. Connor* (1989) 490 U.S. 386, 396. "The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* "The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is necessary in a particular situation." *Id.* at 396-97.

In California, the evaluation of the reasonableness of a police officer's use of deadly force is determined by applying a reasonable person acting as a police officer standard. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (holding that California law "follows the objective 'reasonable person' standard--the trier of fact is required to evaluate the conduct of a reasonable person in the defendant's position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant's conduct. This enables the jury to evaluate the

[14] [redacted] also informed the investigators that he was blind due to health issues caused by diabetes and a failed operation to reattach the retinas in his eyes.

conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special 'reasonable police officer' standard.").

CONCLUSION

The evidence examined in this investigation shows that Deputy Richard Ochoa reasonably believed that Joshua Quintero posed a significant threat of death or serious physical injury to him and therefore the use of deadly force by Ochoa against Quintero was lawful. The basis for this conclusion is explained as follows.

Ochoa was one of several deputies responding to several 9-1-1 calls pertaining to gunshot victim [redacted] who was wandering down Beach Street bleeding heavily. [redacted] falsely told deputies that he had been shot after having an argument with three Hispanic men in the area of 83rd Street and Beach Street. At the time that [redacted] relayed this false information, the deputies were not in a position to discern that this information was false and had to act immediately in order to apprehend the suspect or suspects who had just committed a violent crime.

Ochoa, along with his partner and other deputies, fanned out in the immediate area of 83rd Street and Beach Street to canvas the area for witnesses. In carrying his duties out, it was logical and reasonable for Ochoa to be highly vigilant and to assume that any potential suspects would be armed with a firearm and would therefore be highly dangerous.

Ochoa spotted Joshua Quintero, [redacted] and [redacted] in the immediate vicinity of the shooting location as they walked down 83rd Street towards Beach Street. When Ochoa approached the group of men on foot, he observed their attire and tattoos and concluded that the men were possibly gang members. Of the three men, Quintero's evasive behavior drew Ochoa's attention. Ochoa specifically noticed that as he stood speaking to the group, Quintero began distancing himself while [redacted] and [redacted] remained at the location. When Ochoa specifically asked Quintero again if he had seen anything, Quintero suddenly began running northbound on Beach Street.

Based on Quintero's physical proximity to the crime location and Quintero's efforts to flee, which evidenced a consciousness of guilt, it was reasonable for Ochoa to suspect that Quintero had been involved in shooting [redacted] and was likely armed with a firearm.

Additionally, it was reasonable under the circumstances for Ochoa to detain Quintero and conduct a further investigation. Quintero, however, did not submit to Ochoa's commands to stop running and to stop reaching for his waistband area. Ochoa also repeatedly told Quintero that he did not want to shoot him as he ordered him to stop reaching for his waist area. Ignoring Ochoa's commands, Quintero continued to run from Ochoa, until he was finally cornered near the end of an alley. Given these circumstances and turn of events, it was reasonable for Ochoa to believe that Quintero was a suspect in the shooting of [redacted] that he was armed, and might resort to violence to avoid arrest.

Ochoa's belief that Quintero was armed proved correct when Quintero reached for his waistband and pulled out a gun. In fear for his life and forced to make a split second decision under tense, dangerous and rapidly evolving circumstances, Ochoa shot Quintero.

Though Ochoa mistakenly believed that Quintero was possibly involved in the shooting of [redacted] the evidence nonetheless points to the conclusion that Ochoa's use of force was both reasonable and lawful given Quintero's actions. Quintero fled from Ochoa with a loaded revolver. He removed the revolver from his waistband in the presence of Ochoa. Prior to the shooting, Quintero was observed with the gun in his hand by witnesses [redacted] and [redacted] In addition, DNA consistent with Quintero's DNA profile was found on the gun which Ochoa observed in Quintero's hand. Witness [redacted], Quintero's associate, told LASD investigators that Quintero owned a long barreled silver revolver and had informed him that he was armed. Specifically, Quintero stated that he was "ready." [redacted] knew this meant that Quintero was carrying a firearm at the time they were contacted by Deputy Ochoa.

Though it is possible that Quintero's intention was to dispose of his handgun at the time he withdrew it from his waistband, Ochoa reasonably believed that Quintero was going to shoot him given the facts and circumstances before him.

In conclusion, the evidence reviewed in this case demonstrates that Deputy Ochoa acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.